REMARKS

The Examiner has objected to the drawings as including a reference character not found in the specification. Applicant has enclosed herewith a replacement sheet illustrating Fig. 2 in which the reference character "104" has been corrected to "102".

Claims 1, 4, 13, 20, 24, 25, 27, 34 and 35 have been objected to due to informalities. Applicant has carefully reviewed and revised the claims in accordance with the Examiner's helpful comments.

Claims 34 and 35 stand rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicant has amended the claims in accordance with the USPTO's guidelines. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 23-26 and 34 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention. Applicant has amended the claims in view of the Examiner's helpful comments. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1-7, 11-13, 20-28 and 34-35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Held et al. in view of Schildkraut et al. It is the Examiner's position that Held et al. essentially discloses the features of the claimed invention with the exception that the redeye defect detected in Held et al. is a defect pair and that the separation of the defect pair is measured and used to adjust the defects. The Examiner refers to Schildkraut et al. as setting the pupil size of defects based on defect pair separation. The Examiner then opines that it would be obvious to modify the system of Held et al. using the pupil size setting feature of Schildkraut et al. to arrive at the claimed invention. Applicant respectfully traverses the rejection.

Applicant notes that Schildkraut et al. is directed to finding defect pairs corresponding to pairs of eyes in images in which orientation of the image is unknown. In Schildkraut et al., the given distance between the eyes is utilized to place a limit on the potential size of the pupils of the eyes. As illustrated in Fig. 17A, however, the size of the pupil is used to assign a score based on a pupil ratio between left and right candidate defects (Step S30g). The score is then used to determine an orientation of the pupil pair

(Step S30h). Thereafter, eye templates are utilized to actually define the shape and size of the defect pair (Step S30j). Accordingly, while Schildkraut et al. discusses the relationship between separation distance and pupil size, Schildkraut et al. never discloses or suggests utilizing the separation distance as a parameter to adjust the size of detected defects.

Applicant notes that Held et al., like Schildkraut et al., discloses detection of eye location. At best, the combination of the two references would simply result in the use of the defect pair detection method of Schildkraut et al. to replace the eye detection method utilized in Held et al. Such a combination, however, would not lead one of ordinary skill in the art to adjust the size of the defects based on separation distance as claimed, particularly when Held et al. specifically teaches that edge detection processing is used to determine the border condition for the growing process (Paragraph [0094])

Applicant notes that the Examiner has the burden of establishing a prima facie case of obviousness. In this case, even if the references were combined, the combination of references would not lead one of ordinary skill in the art to utilize the separation distance to adjust defect size as stated above. The Examiner has failed to provide any specific facts or reasoning, as required by the PTO's own established guidelines, as to why one would go beyond the actual teachings of the references to arrive at the claimed invention. In this case, applicant believes only applicant's own disclosure provides the bridge between the references and the claimed invention. As such, the combination of references, even if proper, does not support a proper finding of prima facie obviousness as required under 35 U.S.C. 103. The rejection is therefore improper and should be withdrawn.

The remaining dependent claims stand rejected under 35 U.S.C. 103 as being unpatentable over Schildkraut et al. in view of Held et al. and various secondary references. Applicant submits that none of the secondary references overcomes the deficiencies of the primary references discussed above. Accordingly, the remaining dependent claims are believed to be in condition for allowance for the same reasons set forth above with respect to the independent claims.

In view of the above, all of the claims in this case are believed to be in condition for allowance, notice of which is respectfully urged.

Respectfully submitted,

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